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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,616	10/13/2000	RICHARD E. MCNUTT	ODS-26	9821

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FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

EXAMINER

COBURN, CORBETT B

ART UNIT	PAPER NUMBER
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3714

21

DATE MAILED: 01/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/687,616

Applicant(s)

MCNUTT ET AL.

Examiner

Corbett B. Coburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32, 36-73 and 77-158 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28, 62, 120 and 158 is/are allowed.
- 6) ☒ Claim(s) 1-32, 36-73 and 77-158 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. Applicant's correction to the drawings is approved.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6, 8-18, 20-22, 30-32, 36-45, 47, 49-59, 61-63, 71-73, 77-86, 88, 90-100, 102-104, 111-119, 121-124, 126, 128-138, 140-142 & 149-157 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beachley (US Patent Number 3,762,712) in view of Brenner et al. (US Patent Number 5,830,068).

Claims 1, 42, 83 & 121: Beachley teaches providing access to multiple wagering pools (Fig 3, Pool #1 & Pool #2) that are independent of each other wherein each wagering pool is capable of accepting the wager of the particular wager type for the particular race. Beachley suggests using these wagering tickets with actual races. (Col 6) Beachley, however, teaches a manual system involving printed tickets and carbon paper. Brenner describes a method for allowing a user to use user equipment to place an electronic wager on a race with an interactive wagering application. (Abstract & Fig 1) The interactive wagering application provides the user the opportunity to create a wager of a particular wager type on a particular race. (Col 7, 21-24) The user may, for instance, place a wager

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for a particular horse to win, place, or show in a particular race. (Fig 14) The interactive wagering application is used to place a wager with one of the multiple wagering pools.

Use of computer equipment instead of printed tickets greatly streamlines the bookkeeping process associated with accepting bets. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Beachley in view of Brenner to allow a user to use user equipment to place an electronic wager on a race with an interactive wagering application in order to streamline the bookkeeping process associated with accepting bets.

Claims 2, 43, 84 & 122: Brenner teaches automatically applying wagering pool selection criteria using the interactive wagering application. When a player places a bet on a horse to win, the system automatically selects the correct wagering pool – i.e., the win pool. Furthermore, Brenner teaches automatically applying selection criteria so that certain users are “permitted to have access to certain racetracks, sets of races, wager types, or wager amounts,” in order to “provide various tiers of service.” (Col 10, 56-61) By automatically applying selection criteria, Brenner automatically determines which wagering pool is selected based on certain criteria.

Claims 3, 6, 44, 47, 85, 88, 123 & 126: Beachley teaches allowing the user to place the wager with one of the multiple wagering pools by providing the user with an opportunity to manually apply wagering pool selection criteria – the player fills out the form manually. Brenner teaches use of buttons to manually place wagers.

Claims 4, 45, 86 & 124: Beachley’s race may be a horse race and the wager may be a wager on a horse race. (Col 6, 17-21)

Claims 8, 49, 90 & 128: Beachley teaches a display (i.e., the form) that allows the user to choose a pool by name. (Fig 3)

Claims 9, 50, 91 & 129: Brenner's Fig 14 shows a display screen with a list of available totes for wagering along with odds information associated with the pool.

Claims 10, 11, 51, 52, 92, 93, 130 & 131: Beachley teaches a display screen with a list of available pools for wagering (Fig 13). Brenner teaches a display screen with a list of available pools for wagering (Fig 14) and a display of average odds information associated with the pool.

Claims 12, 53, 94 & 132: Beachley teaches allowing the player to select the track for a wager. (Fig 3) Brenner's Fig 9 discloses displaying a screen that allows the user to select a racetrack for the wager using a highlight region. In this case, Pimlico is highlighted.

Claims 14-16, 55-57, 96-98 & 134-136: Brenner's Figs 12-17 shows a display screen that contains a list of wagers and information on the current odds available at the wagering pool chosen by the user for each of the wagers. The Send Wager box is an option that allows the user to submit the wager for processing by a given pool.

Claims 17, 58, 99 & 137: Beachley teaches allowing the player to select a given wagering pool. (Fig 3) Brenner's Figs 12-17 teaches allowing the user to use the interactive wagering application to select the given one of the multiple wagering pools; displaying a screen for the user that contains a list of wagers and information on the current odds available at the given pool for each of the wagers; and displaying an option on the screen that allows the user to select another pool for the wager (i.e., place

additional bets).

Claims 18, 59, 100 & 138: Brenner's Fig 18 shows a screen that contains a grid arrangement with information about each of the multiple wagering pools.

Claims 20, 61, 102 & 140: Brenner's Fig 19 shows a screen containing the name of the pool and the pool value. (274)

Claims 21, 62, 103 & 141: Beachley teaches showing the name of the pool (Fig 3) and suggest that the odds may be determined by a computer. Brenner's Fig 14 shows a screen with information on the name of pool (i.e., win, place, show, etc.) and odds information for the wager that is associated with the pool.

Claims 22, 63, 104 & 142: Beachley teaches showing the name of the pool. (Fig 3) Brenner's Fig 18 is a screen that displays information on the name of the pool, the odds associated with the wager, and the pool value for the pool.

Claims 30, 71, 111 & 149: Brenner teaches automatically applying selection criteria so that certain users are "permitted to have access to certain racetracks (and their associated totes), sets of races, wager types (i.e., wagering pools), or wager amounts." (Col 10, 56-61)

Claims 31, 72, 112 & 150: Brenner teaches that account information is displayed for each of the multiple wagering pools. (Abstract)

Claims 32, 73, 113 & 151: Brenner's account information includes account balance for each of the wagering pools. (Col 15, 46-49)

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Claims 36, 77, 114 & 152: Brenner teaches that the use of telephones to effectuate off-track wagering is well known to the art. (Col 1, 26-35) Cellular telephones are inherently within the class of telephones.

Claims 39, 80, 117 & 155: Brenner's user equipment includes user television equipment that may be used to create a wager. (Col 8, 13-14)

Claims 40, 81, 118 & 156: Brenner's user equipment is a set-top box that allows the user to create a wager. (Col 7, 55-Col 8, 15)

Claims 41, 82, 119 & 157: Brenner teaches sending the wager to a transaction processing and subscription management system over a communications path connected to the user equipment. (Col 2, 30-35)

Claims 13, 54, 95 & 133: Beachley and Brenner teach the invention substantially as claimed. Both Beachley and Brenner teach allowing the user to create a plurality of wagers. (Beachley, Fig 3, Brenner, Col 12, 9-11) Brenner teaches a display screen that displays the odds for each wager in the queue. (Fig 16) Brenner does not, however, teach display of weighted odds information based on each of the plurality of bets for each of the available totes. Brenner teaches that one of the advantages of the system described is that the user can control the display of the odds and payoff screens for various wager types. (Col 14, 4-6) The system described in Brenner has the ability to display "information regarding exacta, trifecta, and other complex wager pool totals and payoff values for the various wager combinations selected." (Col 13, 39-41) Providing the weighted odds information for each available tote would be well within the capability of Brenner's invention. Brenner teaches the value of providing detailed information to the

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user in order to allow the user to make a fully informed betting decision. (Col 2, 8-12) It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Beachley and Brenner in view of displayed weighted odds information based on each of the plurality of bets for each of the available totes in order to provide detailed information to the user thus allowing the user to make a fully informed betting decision.

Claims 37, 38, 78, 79, 115, 116, 153 & 154: The user terminal (122) is a computer.

While Brenner does not specifically teach that the user terminal (122) can be a handheld computer or a personal computer, these devices are functionally equivalent to the user terminal described. Both personal computers and handheld computers are well known and there is a huge number of potential users who already own such equipment.

Implementing Brenner's invention on a handheld or personal computer would allow a user to use the invention without buying additional hardware. This would reduce costs to the user. It would have been obvious to one of ordinary skill in the art at the time of the invention to have implemented the disclosure of Beachley and Brenner on a handheld or personal computer in order to take advantage of the huge number of huge number of potential users who already own such equipment, thus allowing them to reduce costs by using the system without buying additional hardware.

Overall Justification: Beachley teaches a manual system with preprinted cards – with all the limitations to the display of data that implies. Beachley's system is fairly cumbersome. Col 6, 44-68 describes the process for taking a bet. This process involves making duplicates stamping tickets, entering ticket data into the pari-mutuel system, etc.

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It can only be accomplished at the track itself -- where information about the odds is readily available. Brenner teaches a computerized method of taking bets. Brenner's invention does away with all of the cumbersome steps involved in processing preprinted tickets. Brenner also makes it possible to accept bets over a wide geographical area, thus increasing the number of potential players. In order to realize this potential, Brenner must display more information than Beachley's printed ticket can display. Brenner must, for instance, display data concerning odds on a particular race -- information that is available to people at the track but not available to remote players. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Beachley in view of Brenner to computerize the wagering process and to increase the amount of data displayed in order to streamline the betting process and to allow remote betting, thus increasing profits.

4. Claims 5, 7, 29, 46, 48, 70, 87, 89, 110, 125, 125 & 148 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beachley and Brenner as applied to claim 1, 42, 83 or 121 above, and further in view of Walker et al. (US Patent Number 6,001,016).

Claims 5, 7, 29, 46, 48, 70, 87, 89, 110, 125, 125 & 148: Beachley and Brenner teach the invention substantially as claimed. While Brenner teaches the use of menus, Brenner does not explicitly teach a setup option menu wherein the user may access tote selection features (user preferences) of the interactive game. Walker, an analogous invention, teaches a setup menu in which the player is prompted to enter slot machine selection parameters. This allows the system to automatically tailor the gaming environment to suit the player's requirements. It would have been obvious to one of ordinary skill in the

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art at the time of the invention to modify Brenner's system in view of Walker to have a setup option menu wherein the user may access wagering pool selection features of the interactive game to enter user preferences so that the system can automatically tailor the gaming environment to suit the player's requirements.

5. Claims 19, 23-27, 60, 64-68, 101, 105-109, 139 & 143-147 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beachley and Brenner as applied to claim 1, 42, 83 or 121 above, and further in view of Hirsimaki (US Patent Number 4,001,551).

Claims 19, 60, 101 & 139: Beachley and Brenner teach the invention substantially as claimed. Beachley teaches a display containing the name of each of the wagering pools. (Fig 3) Brenner also teaches a display containing the name of each of the wagering pools. (Fig 14) Brenner does not, however, teach displaying the tax status of each of the totes. Brenner teaches that the invention may handle paperwork required by tax and other regulations. (Col 19, 53-59) This means that the system would obviously have to have information on the tax status of each of the wagering pools. Tax considerations are often of the tremendous importance to players when determining where to wager. Hirsimaki teaches that tax percentages (a portion of the mutuel take) are used to calculate the payout from any bet, thus they are a factor in determining the true odds. (Col 2, 55-59) It would have been obvious to one of ordinary skill in the art to modify Brenner in view of Hirsimaki to display the tax status on each of the pools in order to provide the player with important information to use in determining the true odds.

Claims 23, 64, 105 & 143: Beachley and Brenner teach the invention substantially as claimed. Beachley's Fig 3 displays the names of the pools. Brenner's Fig 19 is a screen

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that displays information on the name of the pools. The odds associated with the wager and the pool value for the multiple pools. Brenner does not, however, teach displaying the tax status of each of the pools. Brenner teaches that the invention may handle paperwork required by tax and other regulations. (Col 19, 53-59) This means that the system would obviously have to have information on the tax status of each of the totes. Tax considerations are often of the tremendous importance to players when determining where to wager. Hirsimaki teaches that tax percentages (a portion of the mutuel take) are used to calculate the payout from any bet, thus they are a factor in determining the true odds. (Col 2, 55-59) It would have been obvious to one of ordinary skill in the art to modify Brenner in view of Hirsimaki to display the tax status on each of the pools in order to provide the player with important information to use in determining the true odds.

Claims 24, 26, 65, 67, 106, 108, 144 & 146: Beachley and Brenner teach the invention substantially as claimed. Brenner teaches automatically applying selection criteria so that certain users are “permitted to have access to certain racetracks (and their associated totes), sets of races, wager types (i.e., wagering pools), or wager amounts.” (Col 10, 56-61) Brenner teaches that the invention may handle paperwork required by tax and other regulations. (Col 19, 53-59) But Brenner does not explicitly teach using the tax status of a particular wagering pool as a selection criterion. Hirsimaki teaches that tax percentages (a portion of the mutuel take) are used to calculate the payout from any bet, thus they are a factor in determining the true odds. (Col 2, 55-59) The larger the tax, the smaller the payout and the worse the odds. It would have been obvious to one of ordinary skill in the

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art to modify Brenner in view of Hirsimaki automatically apply pool selection criteria based on the tax status on each of the pools in order to provide the player with a maximum payout.

Claims 25, 66, 107 & 145: Beachley and Brenner teach the invention substantially as claimed. Brenner teaches automatically applying selection criteria so that certain users are “permitted to have access to certain racetracks (and their associated totes), sets of races, wager types, or wager amounts.” (Col 10, 56-61) Brenner teaches displaying the odds associated with a wager. (Fig 17) Brenner does not, however, teach automatically selecting the wagering pool that has the best odds for a particular wager. The odds determine the payoff to the player. Many (if not most) players want the payoff to be as high as possible. Hirsimaki teaches calculating the odds of each proposition in order to determine the highest available payout. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brenner in view of Hirsimaki to automatically select the wagering pool that has the best odds for a particular wager in order to maximize the payout to the player.

Claims 27, 68, 109 & 147: Beachley and Brenner teach the invention substantially as claimed. Brenner teaches automatically applying selection criteria so that certain users are “permitted to have access to certain racetracks (and their associated totes), sets of races, wager types (i.e., wagering pools), or wager amounts.” (Col 10, 56-61) Brenner teaches displaying the pool value associated with a wager. (Fig 19) Brenner does not, however, teach automatically selecting the tote that has the highest pool value. Hirsimaki teaches that the pool value determines the payoff to the player. Many (if not most)

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players want the payoff to be as high as possible. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brenner in view of Hirsimaki to automatically select the wagering pool that has the highest pool value for a particular wager in order to maximize the payout to the player.

Allowable Subject Matter

6. Claims 28, 69, 120 & 158 are allowed.

Response to Arguments

7. Applicant's arguments with respect to claims 1-27, 29-32, 36-68, 70-73, 77-120 & 122-157 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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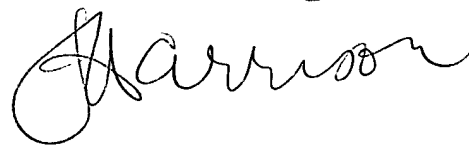
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319.

The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


cbc



JESSICA HARRISON
PRIMARY EXAMINER